
By: **Delegate Donoghue**

Introduced and read first time: February 6, 2004

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Board of Physical Therapy Examiners**

3 FOR the purpose of adding the position of vice chairman to the Board of Physical
4 Therapy Examiners; providing for the appointment and duties of the vice
5 chairman; altering the circumstances under which the Board may disclose
6 information contained in the Board's records; authorizing the Board to disclose
7 information to certain boards under certain circumstances; providing that the
8 Board may authorize the practice of physical therapy by an unlicensed
9 individual under certain circumstances and with certain limitations; altering
10 the requirements for licensure of certain applicants; amending the required
11 frequency of onsite supervision for certain licensed physical therapist
12 assistants; altering the circumstances in which the Board may discipline certain
13 licensees; authorizing certain individuals to file exceptions to the decision of a
14 disciplining committee; amending certain penalties to include imprisonment
15 and an increased maximum fine; authorizing a civil fine of a certain amount to
16 be levied on certain persons; providing for the distribution of the civil fine;
17 amending and clarifying certain definitions; and generally relating to the Board
18 of Physical Therapy Examiners.

19 BY repealing and reenacting, with amendments,
20 Article - Health Occupations
21 Section 13-101, 13-203, 13-207.1, 13-301, 13-303, 13-310, 13-316, 13-317,
22 and 13-407
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2003 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article - Health Occupations**

28 13-101.

29 (a) In this title the following words have the meanings indicated.

1 (b) "Board" means the State Board of Physical Therapy Examiners.

2 (c) "License" means, unless the context requires otherwise, a license issued by
3 the Board to practice:

4 (1) Physical therapy; or

5 (2) Limited physical therapy.

6 (d) "Licensed physical therapist" means, unless the context requires
7 otherwise, a physical therapist who is licensed by the Board to practice physical
8 therapy.

9 (e) "Licensed physical therapist assistant" means, unless the context requires
10 otherwise, a physical therapist assistant who is licensed by the Board to practice
11 limited physical therapy.

12 (f) "Physical therapist" means an individual, licensed by the State Board of
13 Physical Therapy Examiners, who practices physical therapy and who has passed the
14 national physical therapy licensing examination administered or accepted by the
15 Board.

16 (g) "Physical therapist assistant" means an individual who practices limited
17 physical therapy and who has passed the national physical therapy licensing
18 examination administered or accepted by the Board.

19 (h) (1) "Practice limited physical therapy" means to practice the health
20 specialty concerned with:

21 (i) The prevention of disability in [individuals] PATIENTS OR
22 CLIENTS; and

23 (ii) The physical rehabilitation of [individuals] PATIENTS OR
24 CLIENTS with a congenital or acquired disability.

25 (2) "Practice limited physical therapy" includes, except as provided in
26 paragraph (3) of this subsection[, administering]:

27 (I) TAKING AND DOCUMENTING MEASUREMENTS; AND

28 (II) ADMINISTERING treatment with therapeutic exercise,
29 therapeutic massage, mechanical devices, or therapeutic agents that use the physical,
30 chemical, or other properties of air, water, electricity, sound, or radiant energy.

31 (3) "Practice limited physical therapy" does not include:

32 (i) [Performing and interpreting tests and measurements of
33 neuromuscular and musculoskeletal functions to aid treatment] INTERPRETING
34 MEASUREMENTS;

- 1 (ii) Planning treatment programs [that are based on test findings];
2 or
- 3 (iii) Using:
- 4 1. X rays;
- 5 2. Radioactive substances; or
- 6 3. Electricity for cauterization or surgery.
- 7 (i) (1) "Practice physical therapy" means to practice the health specialty
8 concerned with:
- 9 (i) The prevention of disability in [individuals] PATIENTS OR
10 CLIENTS; and
- 11 (ii) The physical rehabilitation of [individuals] PATIENTS OR
12 CLIENTS with a congenital or acquired disability.
- 13 (2) "Practice physical therapy" includes:
- 14 (i) Performing an evaluation of the physical therapy needs of
15 [individuals] PATIENTS OR CLIENTS;
- 16 (ii) Performing and interpreting tests and measurements of
17 neuromuscular and musculoskeletal functions to aid treatment;
- 18 (iii) Planning treatment programs that are based on test findings;
19 and
- 20 (iv) Except as provided in paragraph (3) of this subsection,
21 administering treatment with therapeutic exercise, therapeutic massage, mechanical
22 devices, or therapeutic agents that use the physical, chemical, or other properties of
23 air, water, electricity, sound, or radiant energy.
- 24 (3) "Practice physical therapy" does not include using:
- 25 (i) X rays;
- 26 (ii) Radioactive substances; or
- 27 (iii) Electricity for cauterization or surgery.
- 28 (j) "Restricted license" means a license issued by the Board under and as
29 limited by § 13-314 of this title to practice physical therapy.
- 30 (k) "Temporary license" means a license issued by the Board under and as
31 limited by § 13-313 of this title to practice:
- 32 (1) Physical therapy; or

1 (2) Limited physical therapy.

2 13-203.

3 (a) From among its members, the Board annually shall elect a chairman AND
4 VICE CHAIRMAN.

5 (b) The Board shall determine:

6 (1) The manner of election of the chairman AND VICE CHAIRMAN; and

7 (2) The duties of the chairman AND VICE CHAIRMAN.

8 13-207.1.

9 [(a) The Board may disclose any information contained in a record of the Board
10 to any other health occupations regulatory board of this State or another state if:

11 (1) Disclosure of the information would be in the best interest of public
12 protection; and

13 (2) The information is based on the final decision by the Board.

14 (b) Subject to Title 4, Subtitle 3 of the Health - General Article, the Board
15 shall ensure, to the extent possible, that the name of an individual filing a complaint
16 with the Board or providing information for an investigation is kept confidential
17 when information is disclosed under subsection (a) of this section.] IF IT IS
18 DETERMINED THAT DISCLOSURE OF INFORMATION CONTAINED IN A RECORD OF
19 THE BOARD WILL SERVE TO PROTECT THE PUBLIC, THE BOARD, AFTER AN
20 AFFIRMATIVE VOTE OF A MAJORITY, MAY:

21 (1) DISCLOSE ANY INFORMATION CONTAINED IN A RECORD OF THE
22 BOARD TO ANY OTHER HEALTH OCCUPATIONS LICENSURE BOARD OF THIS STATE IF
23 THE INFORMATION RELATES TO AN INDIVIDUAL LICENSED OR CERTIFIED BY THE
24 OTHER BOARD; OR

25 (2) DISCLOSE TO A PHYSICAL THERAPY LICENSURE BOARD OF ANY
26 OTHER STATE:

27 (I) ANY INFORMATION CONTAINED IN A RECORD OF THE BOARD IF
28 THE INFORMATION RELATES TO AN INDIVIDUAL LICENSED BY THE BOARD AND IS
29 BASED ON A FINAL DECISION OF THE BOARD; OR

30 (II) THE INFORMATION THAT A LICENSEE HAS CHARGES PENDING
31 BEFORE THE BOARD AND THERE HAS BEEN NO FINAL DECISION IN THE MATTER.

32 13-301.

33 (a) Except as otherwise provided in this title, an individual shall be licensed
34 by the Board before the individual may practice physical therapy or limited physical
35 therapy in this State.

1 (b) This section does not apply to:

2 (1) A student who is supervised directly by a licensed physical therapist
3 in a Board approved physical therapy educational program; or

4 (2) A physical therapy aide, if the physical therapy aide:

5 (i) Subject to the rules and regulations adopted by the Board,
6 performs only procedures that do not require the professional skills of a licensed
7 physical therapist or a licensed physical therapist assistant; and

8 (ii) Performs procedures only under the direct supervision of a
9 licensed physical therapist who personally is present in the area where the
10 procedures are performed.

11 (C) SUBJECT TO ANY LIMITATIONS THE BOARD IMPOSES, THE BOARD MAY
12 AUTHORIZE AN UNLICENSED INDIVIDUAL TO PRACTICE PHYSICAL THERAPY OR
13 LIMITED PHYSICAL THERAPY IF:

14 (1) THE BOARD FINDS THAT THE CIRCUMSTANCES WARRANT; AND

15 (2) THE INDIVIDUAL MEETS THE QUALIFICATIONS, OTHER THAN
16 EXAMINATION, FOR A LICENSE.

17 13-303.

18 (a) If an applicant for a physical therapy license has been educated in physical
19 therapy in any state, the applicant shall have:

20 (1) Graduated from a physical therapy program that, in the year of
21 graduation, was approved by:

22 (i) The American Medical Association;

23 (ii) The American Physical Therapy Association; or

24 (iii) The Commission on Accreditation of Physical Therapy
25 Education; and

26 (2) Completed satisfactorily the clinical training required by the physical
27 therapy curriculum.

28 (b) If an applicant for a physical therapy license has been educated in physical
29 therapy outside of any state, the applicant shall have[:

30 (1) Earned all credits at an institution of higher learning that has]
31 GRADUATED FROM A PHYSICAL THERAPY PROGRAM THAT IN THE YEAR OF
32 GRADUATION HAD educational requirements equivalent to a [bachelor's] degree in
33 physical therapy from a United States program accredited by the Commission on
34 Accreditation of Physical Therapy Education[;

- 1 (2) Earned a minimum of 120 credit hours in the following manner:
- 2 (i) 50 credit hours in general education to include at least one
3 course in:
- 4 1. Humanities;
 - 5 2. Social science;
 - 6 3. Behavioral science;
 - 7 4. Physics with a laboratory;
 - 8 5. Chemistry with a laboratory;
 - 9 6. Biology with a laboratory; and
 - 10 7. Mathematics;
- 11 (ii) 60 credit hours in a professional physical therapy program to
12 include at least one course in:
- 13 1. Human anatomy;
 - 14 2. Human physiology;
 - 15 3. Neurology;
 - 16 4. Physiology;
 - 17 5. Functional anatomy;
 - 18 6. Kinesiology;
 - 19 7. Orthopedics;
 - 20 8. Pediatrics;
 - 21 9. Geriatrics;
 - 22 10. Physical agents;
 - 23 11. Musculoskeletal assessment and treatment;
 - 24 12. Neuromuscular assessment and treatment; and
 - 25 13. Cardiopulmonary assessment and treatment; and
- 26 (iii) 10 credit hours as electives in general or professional education;
- 27 (3) Completed at least two clinical affiliations totaling at least 800
28 hours; and

1 (4) Completed a preceptorship that fulfills the requirements set by the
2 Board].

3 (c) If an applicant is currently licensed in any other state, the Board may
4 waive the preceptorship requirement.

5 13-310.

6 (a) Subject to subsection (b) of this section, a physical therapist assistant
7 license authorizes the licensee to practice limited physical therapy while the license is
8 effective.

9 (b) A licensed physical therapist assistant may practice limited physical
10 therapy only under the direction of a licensed physical therapist who gives [periodic]
11 ONGOING onsite supervision and instruction that is adequate to ensure the safety and
12 welfare of the patient.

13 13-316.

14 Subject to the hearing provisions of § 13-317 of this subtitle, the Board may
15 deny a license, temporary license, or restricted license to any applicant, reprimand
16 any licensee or holder of a temporary license or restricted license, place any licensee
17 or holder of a temporary license or restricted license on probation, or suspend or
18 revoke a license, temporary license, or restricted license if the applicant, licensee, or
19 holder:

20 (1) Fraudulently or deceptively obtains or attempts to obtain a license,
21 temporary license, or restricted license for the applicant, licensee, or holder or for
22 another;

23 (2) Fraudulently or deceptively uses a license, temporary license, or
24 restricted license;

25 [(3) Practices physical therapy inconsistent with any written or oral order
26 of:

27 (i) A physician authorized to practice medicine in any state;

28 (ii) A dentist authorized to practice dentistry in any state; or

29 (iii) A podiatrist authorized to practice podiatry in any state;

30 (4)] (3) Unless specifically licensed with respect to the treatment,
31 treats or attempts to treat a health condition of [an individual] A PATIENT OR
32 CLIENT by means other than physical therapy;

33 [(5)] (4) In the case of an individual who is authorized to practice
34 physical therapy is grossly negligent:

35 (i) In the practice of physical therapy;

- 1 (ii) In the direction of an individual who is authorized to practice
2 limited physical therapy; or
- 3 (iii) In the supervision of a physical therapy aide;
- 4 [(6)] (5) In the case of an individual who is authorized to practice limited
5 physical therapy:
- 6 (i) Practices limited physical therapy other than as authorized by
7 this title; or
- 8 (ii) Is grossly negligent while practicing limited physical therapy;
- 9 [(7)] (6) Is convicted of or pleads guilty or nolo contendere to a felony or
10 to a crime involving moral turpitude, whether or not any appeal or other proceeding is
11 pending to have the conviction or plea set aside;
- 12 [(8)] (7) Is convicted of a violation of a narcotic law;
- 13 [(9)] (8) To an extent that impairs professional competence, habitually
14 uses any:
- 15 (i) Drug; or
- 16 (ii) Alcoholic beverage;
- 17 [(10)] (9) Pays or agrees to pay any sum to any person for bringing or
18 referring a patient;
- 19 [(11)] (10) Is disciplined by a licensing or disciplinary authority of any
20 [other] state or country or convicted or disciplined by a court of any state or country
21 OR DISCIPLINED BY ANY BRANCH OF THE UNITED STATES UNIFORMED SERVICES OR
22 VETERANS ADMINISTRATION for an act that would be grounds for disciplinary action
23 under the Board's disciplinary statutes;
- 24 [(12)] (11) Practices physical therapy or limited physical therapy with an
25 unauthorized person or supervises or aids an unauthorized person in the practice of
26 physical therapy or limited physical therapy;
- 27 [(13)] (12) Willfully makes or files a false report or record in the practice of
28 physical therapy or limited physical therapy;
- 29 [(14)] (13) Willfully fails to file or record any report as required by law,
30 willfully impedes or obstructs the filing or recording of the report, or induces another
31 to fail to file or record the report;
- 32 [(15)] (14) Submits a false statement to collect a fee;
- 33 [(16)] (15) Violates any provision of this title or rule or regulation adopted
34 by the Board;

- 1 [(17)] (16) Uses or promotes or causes the use of any misleading, deceiving,
2 or untruthful advertising matter, promotional literature, or testimonial;
- 3 [(18)] (17) Is professionally, physically, or mentally incompetent;
- 4 [(19)] (18) Promotes the sale of devices, appliances, or goods to a patient
5 OR CLIENT so as to exploit the patient OR CLIENT for financial gain;
- 6 [(20)] (19) Commits an act of unprofessional conduct in the practice of
7 physical therapy or limited physical therapy;
- 8 [(21)] (20) Grossly overutilizes health care services;
- 9 [(22)] (21) Is convicted under insurance fraud as defined in § 27-801 of the
10 Insurance Article;
- 11 [(23)] (22) Refuses, withholds from, denies, or discriminates against [an
12 individual] A PATIENT OR CLIENT with regard to the provision of professional
13 services for which the licensee is licensed and qualified to render because the
14 [individual] PATIENT OR CLIENT is HIV positive;
- 15 [(24)] (23) Provides professional services while:
- 16 (i) Under the influence of alcohol; or
- 17 (ii) Using any narcotic or controlled dangerous substance, as
18 defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of
19 therapeutic amounts or without valid medical indication;
- 20 [(25)] (24) Willfully and without legal justification, fails to cooperate with
21 a lawful investigation conducted by the Board; or
- 22 [(26)] (25) Fails to meet accepted standards in delivering physical therapy
23 or limited physical therapy care.
- 24 13-317.
- 25 (a) Except as otherwise provided in the Administrative Procedure Act, before
26 the Board takes any action under § 13-316 of this subtitle, it shall give the individual
27 against whom the action is contemplated an opportunity for a hearing before the
28 Board.
- 29 (b) The Board shall give notice and hold the hearing in accordance with the
30 Administrative Procedure Act.
- 31 (c) The individual may be represented at the hearing by counsel.
- 32 (d) (1) The chairman of the Board may delegate authority to conduct a
33 hearing to a committee consisting of three or more Board members.
- 34 (2) The committee shall:

- 1 (i) Hold an evidentiary hearing; and
- 2 (ii) Prepare a recommended decision for consideration by a quorum
3 of the Board, which may include members of the committee.

4 (3) The committee shall give [to the individual who is the subject of the
5 hearing notice of] EACH PARTY the opportunity to file exceptions and present
6 argument to the Board regarding the decision of the committee.

7 (e) Over the signature of an officer or the executive director of the Board, the
8 Board may issue subpoenas and administer oaths in connection with any
9 investigation under this title and any hearings or proceedings before it.

10 (f) If, without lawful excuse, a person disobeys a subpoena from the Board or
11 an order by the Board to take an oath or to testify or answer a question, then, on
12 petition of the Board, a court of competent jurisdiction may punish the person as for
13 contempt of court.

14 (g) If after due notice the individual against whom the action is contemplated
15 fails or refuses to appear, nevertheless the Board may hear and determine the matter.
16 13-407.

17 (A) A person who violates any provision of this title is guilty of a misdemeanor
18 and on conviction is subject to a fine not exceeding [\$1,000] \$5,000 OR
19 IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.

20 (B) (1) ANY PERSON WHO VIOLATES § 13-401 OF THIS SUBTITLE IS SUBJECT
21 TO A CIVIL FINE OF NOT MORE THAN \$50,000 TO BE ASSESSED BY THE BOARD.

22 (2) THE BOARD SHALL PAY ANY PENALTY COLLECTED UNDER THIS
23 SUBSECTION INTO THE STATE BOARD OF PHYSICAL THERAPY EXAMINERS FUND.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2004.